



Reprinted  
March 16, 2007

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## ENGROSSED HOUSE BILL No. 1338

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DIGEST OF HB 1338 (Updated March 15, 2007 2:03 pm - DI 106)

**Citations Affected:** IC 11-10.

**Synopsis:** Mental health and health records. Provides for the maintenance and transfer of a criminal offender's health and mental health records. (The introduced version of this bill was prepared by the commission on mental health.)

**Effective:** July 1, 2007.

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**Brown C, Noe**  
(SENATE SPONSORS — LAWSON C, SIMPSON)

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January 16, 2007, read first time and referred to Committee on Judiciary.  
February 1, 2007, reported — Do Pass.  
February 7, 2007, read second time, ordered engrossed. Engrossed.  
February 8, 2007, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 19, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
March 13, 2007, reported favorably — Do Pass.  
March 15, 2007, read second time, amended, ordered engrossed.

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EH 1338—LS 6724/DI 14+



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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1338

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 11-10-4-9 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]: Sec. 9. (a) As used in this section, "mental health record"  
4 has the meaning set forth in IC 16-18-2-226.

5 (b) Subject to the conditions described in subsection (e), a  
6 psychiatrist or behavioral health care provider may, with or  
7 without the offender's consent, provide a copy of an offender's  
8 health and mental health records to a facility, an agency, or a  
9 health care provider responsible for the incarceration of an  
10 offender. The facility or agency responsible for the incarceration  
11 of an offender shall maintain any health and mental health records  
12 provided under this subsection as part of the offender's health  
13 record.

14 (c) Subject to the conditions described in subsection (e), if an  
15 offender is transferred to a different facility, the operator of the  
16 facility or agency from which the offender is transferred shall  
17 provide the offender's health and mental health records to the

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1 facility that is used to:

2 (1) house; or

3 (2) provide mental health treatment to;  
4 the offender, including a county jail or a community mental health  
5 center.

6 (d) The department shall maintain health and mental health  
7 records for each offender incarcerated by the department. Subject  
8 to the conditions described in subsection (e), after an offender is  
9 released from incarceration, the department shall provide the  
10 offender's health and mental health records, if any, to a mental  
11 health facility, mental health provider, or designated health care  
12 provider that is providing mental health treatment to the offender.

13 (e) An offender's health and mental health records may be  
14 disclosed under this section only if the records are necessary for:

15 (1) the provision of health care to the offender;

16 (2) the health and safety of the offender or other offenders;

17 (3) the health and safety of others at the facility;

18 (4) the health and safety of persons responsible for  
19 transporting or transferring the offender from one location to  
20 another;

21 (5) law enforcement on the premises of a facility; or

22 (6) the administration and maintenance of the safety, security,  
23 and good order of the facility.

24 (f) All records covered under this section are subject to privacy  
25 and confidentiality laws, rules, and procedures enacted by the state  
26 or federal government.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1338, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1338, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1338 as printed February 2, 2007.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

## SENATE MOTION

Madam President: I move that Engrossed House Bill 1338 be amended to read as follows:

Page 1, line 5, delete "A" and insert "**Subject to the conditions described in subsection (e), a**".

Page 1, line 13, delete "If" and insert "**Subject to the conditions described in subsection (e), if**".

Page 2, line 5, delete "After" and insert "**Subject to the conditions described in subsection (e), after**".

Page 2, line 11, after "(e)" insert "**An offender's health and mental health records may be disclosed under this section only if the records are necessary for:**

- (1) the provision of health care to the offender;
- (2) the health and safety of the offender or other offenders;
- (3) the health and safety of others at the facility;
- (4) the health and safety of persons responsible for transporting or transferring the offender from one location to



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**another;**

**(5) law enforcement on the premises of a facility; or**

**(6) the administration and maintenance of the safety, security,  
and good order of the facility.**

**(f)".**

(Reference is to EHB 1338 as printed March 13, 2007.)

LAWSON C

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